



# Service Contracts; Why is Market Rate a Bad Market?

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## Clark Terrill, C.P.M.

Clark has been an educator and lecturer in procurement for over 30 years. He is a Past-President of NAPM-Los Angeles and has earned the Lifetime C.P.M. professional designation.

In October 2008 Clark became the Director - Purchasing for Live Nation, the largest producer of live music concerts in the world, annually producing over 22,000 concerts for 1,600 artists in 33 countries.

Clark had been the Manager, Procurement and Contract Services for The J. Paul Getty Trust. Responsibilities included supporting the Getty Trust four programs— J. Paul Getty Museum, Getty Research Institute, Getty Conservation Institute, and Getty Foundation.

Clark was previously the Manager of Corporate Purchasing for American Honda Motor Co., Inc. His staff of 13 buyers had responsibility for approximately \$1 Billion in spend nationwide.

Previously, Clark was a Purchasing Consultant at American Express. He conducted diagnostic analyses of corporate purchasing systems and assessed how organizations might increase their efficiency and effectiveness.

Clark spent most of his professional life at American Airlines, where he rose to the position of Western Division Manager of Purchasing and Contract Administration. His geographical area of responsibility ranged from Denver to Honolulu, and all of Canada.

Clark was a featured speaker in the Purchasing Executive Program at The Anderson Graduate School of Management at UCLA. He is the author and presenter of the groundbreaking series entitled "The Advantage System." He has developed and conducted numerous seminars in cost savings, p-cards, negotiations, service contracts and supplier diversity. In addition, he has been a featured speaker at numerous MWBE events, trade fairs and organization meetings. He has also been a speaker at ISM affiliate meetings, the 2006, 2007, 2008 and 2009 ISM International Conferences and the April 2007 ISM Satellite Seminar.

# Service Contracts

**We select a service provider, draft a contract, write a statement of work, and manage the service agreement.**

Service providers quote by billable hour rate, flat rate, market rate, budget rate or some other rates. What is the right rate? How can we better negotiate a service and its pricing? This session will introduce a price analysis methodology and a negotiation strategy on negotiating service contracts. This session will focus on negotiating service contracts through a methodology and a process to identify specific price components. Then develop the RFP/contact templates and benchmark for industry standard pricing. We will identify a strategy to negotiate each of the price components. As any in good supply chain, the more we lower each cost: the lower our price. Actual contract cases will be discussed. Bring your own example contract if you wish.

# Service Contracts

**How is buying services different?**

- **Difficult to write a comprehensive Statement of Work**
- **Bad service is not “returnable”**
- **More subjective decision criteria**
- **Background checks and security concerns must be addressed**
- **Not covered by the Uniform Commercial Code (UCC)**

# Service Contracts

## **The Pursuit of Value:**

**The ultimate objective is to maximize the value of each professional service dollar that is spent.**

**We buy services based on a combination of price and the intrinsic value (What you get) the Service provides us.**

# Service Contracts

## **Value Decomposition:**

**As buyers, each of us weighs the importance of intrinsic components differently.**

**The same service may be worth more to you than to me, even though we paid the same price.**

# Service Contracts

## **Intrinsic Value Components:**

- **Reputation of the Firm**
- **Location of Supplier**
- **Service Received During Sale**
- **Ease of Purchase**
- **Customer Support After Sale**
- **Quality of the Individual**
- **Supplier Diversity**
- **Political or Community Considerations**
- **Others**

# Service Contracts

## **Define the Terms**

**Strategic substitution – identifying alternative means to desired ends or performing cost benefit analysis to determine the relative value among options (i.e. using videoconferencing vs. negotiating airline concessions).**

# Service Contracts

## **Other Service Procurement Process**

- **Include ALL requirements in the RFP.**
- **Determine scoring criteria with the SME and the user department.**
- **Include contract language in the RFP.**
- **Understand suppliers' pricing and margins.**
- **Understand volume commitments and consequences.**
- **Use technology where it makes sense.**
- **Develop a process to "weed out" suppliers.**

# Service Contracts

**Service Contract Pricing  
Evaluation  
Negotiation**

# Service Contracts

## Service Contracts Pricing and Evaluation

- Value of longer terms contracts
- The Overtime Myth
- Benchmarking for standard pricing/ value
- Price components breakdown
- Develop templates for what you buy

# Service Contracts

## Value of Longer Terms Contracts

- Don't have to touch each year
- Amortize costs over multi-years
- Visibility to cost increases long term, i.e., low initial price - high maintenance later years
- Value to suppliers of stable business

# Service Contracts

## Overtime Rate Myth

Overtime pay might be 1.5 times.

What is the Billable Rate for Overtime?

Is it 1.5 as well?

Are all costs 1.5 more or just wages?

# Service Contracts

## Benchmarking Sources of Information

- The Internet
- Purchasing Groups
- Functional Colleagues Inside and Outside of Your Industry
- Trade Associations
- Government Agencies
- Ex-employees of Supplier Firms
- Incumbent Suppliers
- Trade Journals
- Small Business Directories

# Service Contracts

## Price Components Breakdown

**The primary key is to do a price components breakdown analysis.**

**Wage, tax, benefits - holidays, vacation, company pay and employee pay benefits.**

**Overhead, insurance, workers comp, vehicles, equipment, travel, training, uniforms, finance, miscellaneous, profit, administrative (G&A)**

**Negotiate each component. Just like parts of a supply chain or analysis of goods pricing .**

# Service Contracts

## Develop Templates for what you Buy

**Examples to discover, how they built their rate.**

**Zero Base  
Market Base**



# Service Contracts

Service providers quote by billable hour rate, flat rate, market rate, budget rate or some other rates.

What is the right rate?

How can we better negotiate a service and its pricing?

A price analysis methodology and a negotiation strategy on negotiating service contracts.

A methodology and a process to identify specific price components. Develop the RFP/contact templates and benchmark for industry standard pricing.



Billable hour rate, flat rate, market rate, budget rate or some other rates.

Where did this Rate come from?

Market Rate  
Zero Based Budget Rate



## Market Rate

Everyone else is charging xx% or \$xx/ Hour

That is what you agreed to last time.

That is what I get from all my other clients.



## Market Rate

How does that reflect your costs?

Are you making any profit?

Or too much profit?

If I help you reduce your costs, will that change my rate?

Hint: NO



## Zero Based Budget Rate

Like a normal budget. How much does it cost to run your business?

How much does it cost to provide service to me?

How can I be your cheapest customer?

Revenue	Percent Wage		Percent Revenue				
Company/ Division		6,456,000.00	80.1%				
Company/ Division		1,600,000.00	19.9%				
<b>Total</b>	<b>158.7%</b>	<b>8,056,000.00</b>	<b>100.0%</b>				
Direct Labor	<b>63.00%</b>	5,075,280.00	100.0%				
Holiday Premium (6@4hrs.)	1.15%	58,365.72	0.7%				
Sick Days (6)	2.31%	117,238.97	1.5%				
Non Sched OT	3.00%	152,258.40	1.9%				
Vacation (80 hrs.)	3.85%	195,398.28	2.4%				
<b>Total Direct Labor</b>		<b>5,598,541.37</b>	<b>69.5%</b>				
FICA	7.65%	428,288.41	5.3%				
FUTA	0.80%	44,788.33	0.6%				
SUI	3.50%	195,948.95	2.4%				
Work Comp	7.00%	391,897.90	4.9%				
Gen Liability	5.00%	279,927.07	3.5%				
<b>Total Direct &amp; Burdens</b>		<b>6,939,392.03</b>	<b>86.1%</b>				
Healthcare	4@ \$317	15,216.00	0.2%				
Health Staff	42@ \$231	116,424.00	1.4%				
Vehicle - Electric	5	10,500.00	0.1%	Autos	Elec Carts		
Vehicle - Gas	14	77,000.00	1.0%	1800	600	Annual Maintenance	
Uniforms	\$0.19	47,852.00	0.6%	2700	1500	Annual Insurance	
				1000	-	Registration	
<b>Indirect</b>		<b>266,992.00</b>	<b>3.3%</b>	5500	2100	Annual Total per Vehicle	
Administrative							
Administrative	Location A	44,720.00	0.6%				
Administrative	Location B	37,440.00	0.5%				
Administrative	Location C	44,990.00	0.6%				
Administrative	Location D	31,200.00	0.4%				
Administrative	17.95%	28,423.83	0.4%				
Administrative	Corporate	48,000.00	0.6%				
Administrative	Corporate	43,500.00	0.5%				
<b>Total Administrative Salaries</b>		<b>278,273.83</b>	<b>3.5%</b>				
Travel		96,000.00	1.2%				
Finance Interest	1.00%	80,560.00	1.0%				
G & A	4.00%	223,941.65	2.8%				
Miscellaneous (List)							
<b>Total Administrative Expense</b>		<b>400,501.65</b>	<b>5.0%</b>				
<b>Total Cost</b>		<b>7,885,159.51</b>	<b>97.9%</b>				
<b>Profit/Loss</b>		<b>170,840.49</b>	<b>2.1%</b>				

	Percent Wage		Percent Revenue			
Revenue						
Company/ Division 1		6,456,000.00	80.1%			
Company/ Division 2		1,600,000.00	19.9%			
<b>Total</b>	<b>156.3%</b>	<b>8,056,000.00</b>	<b>100.0%</b>			
<b>Direct Labor</b>	<b>64.00%</b>	<b>5,155,840.00</b>	<b>100.0%</b>			<b>Reduce to 3 Personal Days</b>
Holiday Premium (6@4hrs.)	1.15%	59,292.16	0.7%			
Sick Days (3)	15.1%	769,224.10	14.7%			
Non Sched OT	3.00%	154,675.20	1.9%			
Vacation (80 hrs.)	3.85%	198,499.84	2.5%			
<b>Total Direct Labor</b>		<b>5,627,599.36</b>	<b>69.9%</b>			
FICA	7.65%	430,511.35	5.3%			
FUTA	0.80%	45,020.79	0.6%			
SUI	3.50%	196,965.98	2.4%			
Work Comp	7.00%	393,931.96	4.9%			
Gen Liability	5.00%	281,379.97	3.5%			
<b>Total Direct &amp; Burdens</b>		<b>6,975,409.41</b>	<b>86.6%</b>			
<b>Healthcare Supervisors</b>	<b>4 at \$17</b>	<b>15,216.00</b>	<b>0.2%</b>			<b>Max. \$80,000 Annual Company Contribution</b>
<b>Healthcare Officers</b>	<b>42 at \$160</b>	<b>80,000.00</b>	<b>1.0%</b>			
Vehicle - Electric	5	10,500.00	0.1%	Autos	Elec Carts	Annual Maintenance
Vehicle - Gas	14	77,000.00	1.0%	1800	600	Annual Insurance
Uniforms	\$0.19	47,852.00	0.6%	2700	1500	Registration
				1000	-	Annual Total per Vehicle
<b>Indirect</b>		<b>230,568.00</b>	<b>2.9%</b>	<b>5500</b>	<b>2100</b>	
<b>Administrative</b>						
Administrative	Location A	44,720.00	0.6%			
Administrative	Location B	37,440.00	0.5%			
Administrative	Location C	44,990.00	0.6%			
Administrative	Location D	31,200.00	0.4%			
Burdens	17.95%	28,423.83	0.4%			
Administrative	Corporate	48,000.00	0.6%			
Administrative	Corporate	43,500.00	0.5%			
<b>Total Administrative Salaries</b>		<b>278,273.83</b>	<b>3.5%</b>			
Travel	1.19%	96,000.00	1.2%			
Finance Interest	1.00%	80,560.00	1.0%			
G & A	2.78%	224,000.00	2.8%			
Miscellaneous (List)						<b>Fixed</b>
<b>Total Administrative Expense</b>		<b>400,560.00</b>	<b>5.0%</b>			
<b>Total Cost</b>		<b>7,884,811.23</b>	<b>97.9%</b>			
<b>Profit/Loss</b>		<b>171,188.77</b>	<b>2.1%</b>			

Bidder Finalist Company Name	Hr. Rate	EFT	Monthly Billing Amount	Percent
<b>Direct Labor by billable job classifications</b>				
Custodians				%
Floor Crew				%
Lead				%
Other-specify				%
Other-specify				%
Other-specify				%
Other-specify				%
Other-specify				%
Other-specify				%
Other-specify				%
Holiday Premium				%
Sick Days ( )				%
Vacation ( ___ hrs.)				%
<b>Total Direct Labor</b>				<b>100%</b>
			<b>Monthly Billing Amount</b>	<b>Percent</b>
<b>Payroll Costs</b>				
FICA				%
FUTA				%
SUI				%
Work Comp				%
Gen Liability				%
Other -specify				%
Other -specify				%
Other -specify				%
<b>Total Payroll Costs</b>				%
<b>Total Direct &amp; Burdens</b>				%
<b>Indirect and Admin.</b>				%
Healthcare Premiums				%
Vehicles				%
Uniforms				%
Training				%
Other-specify				%
Other-specify				%
<b>Total Indirect</b>				%
<b>Equipment and Cleaning Supplies</b>				%
<b>Administrative</b>				%
Finance Costs				%
General & Administrative Overhead				%
Miscellaneous (List)				%
Other- specify				%
Other- specify				%
<b>Total Administrative Expense</b>				%
<b>Total Cost</b>				%
<b>Profit/Loss</b>				%
<b>Total Monthly Billable Amount</b>				<b>100%</b>

Placements at Live Nation from 01/01/07 through 10/31/08

Supplier Name: \_\_\_\_\_

Live Nation Locations supported by your company: \_\_\_\_\_

Point of Contact Information for (Name, Address, Phone, Email) \_\_\_\_\_

Positions Placed

Job Title	Description	Job Location	Hire Date or Duration of Placement	Rate of Pay	Mark-up %	Billable Rate	Billable Rate	Payment Discount	Other Fees/Charges	Temp Employee Benefits offered	Benefits Contrib. by Emp.	Use of Sub-Contract Temp Services	Other pertinent information

<b>Live Nation Special Events Pricing Structure</b>			<b>Name of Bidder Company</b>		
<b>Projected billable Head Count (HC)</b>	<b>Number of HC</b>	<b>Monthly salary range by individual</b>	<b>Monthly Billable Rate by individual</b>	<b>Total Monthly Billable Charges (Bill Rate X HC)</b>	<b>If Salary and Bill Rate are not the same, specify and cost out the differences.*</b>
<b>Commission Schedule *</b>					
<b>Identify % Commission</b>					

Based on either:

Gross Revenue

Net Revenue

Other - specify

Other Billable Fees

Travel

Mileage

G&A

Other - specify

Other- specify

Other - specify

Total Estimated Billable Costs to Live Nation:

CONTRACT CLEANING SPECIFICATIONS

I. MAN-HOUR ESTIMATE

The contractor's submittal to Live Nation's Request for Proposal must include the following breakdown of unit costs and the estimated man-hours required to accomplish the work specified in the Janitorial Requirements. Identify the unit costs and man-hours in the following manner:

Monthly		<u>Unit Cost</u>	<u>Man-hours</u>
<u>Description of Workload</u>			
A.	Policing	<u>\$ 9.98</u>	<u>3437.21</u>
B.	Routine Cleaning (daily/weekly)	<u>\$ 9.98</u>	<u>4426.25</u>
C.	Project Work (Routines performed less than once per week)	<u>\$ 9.98</u>	<u>1383.19</u>
	Total		<u>9246.65</u>
<b><u>INTERIOR</u> *</b>			
1)	Periodic carpet cleaning (cost/sq.ft.)	<u>\$ .09</u>	<u>725.15</u>
2)	Other floor maintenance (cost/sq.ft.)	<u>\$ .09</u>	<u>960.00</u>
3)	Wall washing (cost/sq.ft.)	<u>\$ .09</u>	<u>480.00</u>
4)	Furniture - wash/polish (cost/work station)		<u>\$ .07</u>
	<u>472.08</u>		
5)	All other - specify		
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
<b><u>EXTERIOR</u> *</b>			
1)	Lot Sweeping (cost/sq.ft.)	<u>\$ .07</u>	<u>1430.11</u>
2)	All other - specify		
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

II. <u>MANPOWER ASSIGNED SHIFT</u>		<u>Cleaners</u>	<u>Supervision</u>
	Morning	<u>11</u>	<u>1</u>
	Afternoon	<u>10</u>	<u>1</u>
	Midnight	<u>14</u>	<u>1</u>
	Day-Off/Vacation Relief	<u>14</u>	<u>1</u>
	Total	<u>49</u>	<u>4.2All hours</u>
<u>included in Workload A-B-C</u>			
III. <u>COMPONENTS OF THE HOURLY RATE</u>			
A.	<u>Direct Cost/Hour</u>		<u>Amount</u>
%			
1)	Payroll hourly rate	<u>\$5.86</u>	<u>58.7</u>
2)	Taxes (FICA, SDI, etc.)	<u>\$1.60</u>	<u>16.1</u>
3)	Benefits (Health Ins., etc)	<u>\$1.44</u>	<u>14.4</u>
4)	Uniforms	<u>\$ .03</u>	<u>.3</u>
5)	Equipment, material and supplies	<u>\$ .29</u>	<u>2.9</u>
	<u>SUBTOTAL</u>	<u>\$9.22</u>	<u>92.4</u>
B.	<u>Indirect Cost/Hour1</u> General overhead and administration	<u>\$ .20</u>	<u>2.0</u>
2)	Downtime - (Areas unavailable for cleaning)	<u>\$ --</u>	<u>--</u>
3)	Downtime - (Holiday, vacation, sick time, etc.)	<u>\$ .11</u>	<u>1.1</u>
4)	Supervision	<u>\$ .15</u>	<u>1.5</u>
	Subtotal	<u>\$ .46</u>	<u>4.6</u>
C.	Profit	<u>\$ .30</u>	<u>3.0</u>
	Total Billable Regular Hourly Rate	<u>\$ 9.98</u>	<u>100</u>
	Total Billable Holiday Hourly Rate	<u>\$14.97</u>	<u>---</u>

**VII. COST PROPOSAL - The cost proposal should contain at least the following information:**

- The cost for the entire project broken down by the activities, tasks or steps shown on the project schedule.
- Estimated periodic billing to the Company based on the cost of deliverable items.
- Cost or pricing details should be shown by task. This might include:
  - \* Hours by category, hourly rates, and total labor broken out by professional and other labor. Rates are to include overhead and profit.
- Purchased materials, estimated unit costs, and quantities.
- Travel, lodging, and other direct expenses.
- \* Subcontract Costs

## Example Email

We do not give out our markups to our clients unless we have negotiated a set markup from the beginning of the relationship and it is in the contract. Set mark up accounts are those companies/clients that we have massive volume with and are usually nationwide. With Livenation, we work within your budgeted bill rates. One of the biggest reasons we do not offer markups is because each position/placement is different. For example---if they called me needing a very hard to find skill set and needed them for 1 month---that markup is going to be very high since the duration of the contract is so short and the level of difficulty of finding these people is so great. If I got a call and they needed someone for a 9 month contract----my mark-up would be much lower.  
OT Rates are 1.5 X Bill rates

## Bidder Response Form

**ATTACHMENT C -Bidders Response Form**  
SUPPLIERS NAME:

\_\_\_\_\_

Proposes to furnish the services under conditions supplied in the Temporary Staffing Services Request for Proposal.  
Provide rates and percentage mark-up based upon the projected volume of \$ xxxxxx

<b>Company</b>	<b>Positions</b>	<b>Pay Rate</b>	<b>Mark Up %</b>	<b>Bill Rate</b>
<b>ABC Co.</b>				
<b>Los Angeles, CA</b>				
	Administrative Asst.			
	Payrolled Assoc.			
	Clerk Accountant			
	_____			



## Service Contracts

Benefit Questions	% Paid by Vendor	Describe Benefits Provided by Bidder for Temporaries
Does your company offer or provide the following insurance?		
Medical		
Dental		
Vision		
Basic Life		
Group Life		
Business Travel/Accident		
Accidental Death & Dismemberment		
Disability		
Please provide name and contact information of your Worker's Compensation carrier		

## Service Contracts

Benefit Questions	% Paid by Vendor	Describe Benefits Provided by Bidder for Temporaries
Pls. describe method of payment to workers (check, direct deposit, etc.)		
Do you offer direct deposit?		
Do you offer 401K? Matching?		
Do you offer Savings Plan? Matching?		
What is your method of tracking hours? (time cards, website, etc.)		
How often are workers paid?		
Do you offer vacation or holiday pay?		
If so, when does worker become eligible?		
If applicable, advise holiday schedule.		

# Service Contracts

Benefit Questions	% Paid by Vendor	Describe Benefits Provided by Bidder for Temporaries
Do you offer a pretax spending acct.?		
Do you provide tuition reimbursement? What % of course & books is covered?		
Do you offer a tax deferred and/or supplemental savings plan for highly compensated individuals?		
Others		

# Service Contracts

<i>Personnel hourly billing:</i>	Straight Time Pay Rate	Straight Time Bill Rate	Overtime Pay Rate	Overtime Bill Rate
Supervisor	\$ to \$		\$	\$
Security Officer	\$ to \$		\$	\$
ComSec Supv.	\$ to \$		\$	\$
ComSec Officer	\$ to \$		\$	\$
ComSec Officer	\$ to \$		\$	\$
Security Mgr. Salary	\$ to \$	N/A	\$ N/A	\$ N/A

**Volume Discount:**

If volumes reached a certain level, what additional discounts would your company offer?

Revenue (\$)\_\_\_\_ Entire Bill Discount (%) \_\_\_\_Markup Rate Discount (%)\_\_\_\_

**Tenure Discount**

If a temporary has been assigned at a certain position for a considerable time, what discount would your company offer on the markup rate?

Tenure Hours \_\_\_\_ Markup Rate Discount (%) \_\_\_\_

**Payment Terms**

Payments terms are normally Net 30 days. If we were to accelerate payment, what discount would your company offer on the entire bill?

Payment Terms \_\_\_\_ Entire Bill Discount (%) \_\_\_\_

**Contract Length Discount**

If we negotiated a long-term contract with your company, what discount would you offer?

Contract Length \_\_\_\_ Markup Rate Discount (%) \_\_\_\_

## Total Cost of Ownership

The difference between Price and Cost

Price = price tag

Cost = what it costs us to use it

## Price Increase Indices

**“Beginning one (1) year from the Effective Date and each anniversary thereafter, we may with both sufficient written notice and mutual agreement of both parties, adjust the Fees by a percentage equal to the percentage increase in the most recent Bureau of Labor Statistics Employment Cost Index for Service Providing Industries, Professional and Business Services for the 12 month period preceding the applicable anniversary date (which shall also be the effective date for any adjustment).”**

## Cost Increase Indices

**U.S. Department of Labor - Bureau of Labor Statistics  
Employment Cost Index -**

**Civilian workers**

**Private industry workers**

**State and Local Government workers**

**Union workers**

**Nonunion workers**

**Occupation**

**Industry**

**Seasonally adjusted and not seasonally adjusted**

**12 Tables**

# Service Contracts Summary

**Different from Goods Procurement**

**Pursuit of Value**

**Type of Rate**

**Price Components Breakdown and Templates**

**Overtime Bill Rate**

**What is in their Costs? That is Where to Negotiate**

# Negotiations

**Win-Win**

**In order to get what you want,  
help them get what they want.**

# Negotiations

**“In business, you don’t get what you deserve,  
you get what you negotiate.”**

*Dr. Chester L. Karrass*

**“You don’t get much of anything,  
if you don’t ask for it.”**

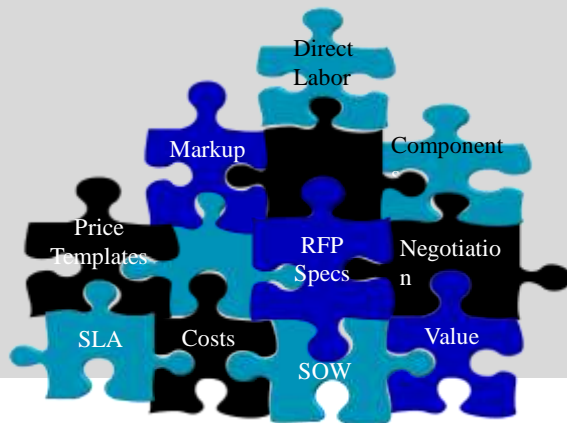
*Clark Terrill, C.P.M.*

**“Always Be Prepared to Negotiate, but  
Never Negotiate Without Being Prepared.”**

*Winston Churchill*

# Summary

- The Pieces will all fit together



**Thank You**